



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FWP/170681

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed December 10, 2015, under Wis. Admin. Code § HA 3.03(4) (\*This subprogram no longer exists.), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on January 14, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly discontinued Petitioner's FoodShare for failing to meet Able-Bodied Adult without Dependent (ABAWD) work requirements.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

||

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED]  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner filed this appeal to contest the discontinuance of her FoodShare benefits effective November 1, 2015. Those benefits were discontinued for failure to meet the participation

requirements of the FoodShare Employment and Training (FSET) program as an Able-bodied Adult Without Dependents (ABAWD) who was required to meet a work requirement.

3. Petitioner had an open FoodShare case that was reviewed in June 2015. She was determined to be subject to mandatory ABAWD rules.
4. FSET appointments were set for Petitioner for June 25, July 7, July 16 and July 28, 2015. Petitioner missed all of them.
5. Petitioner's time limited FoodShare benefits have been received for the months of July, August and October 2015. September was not a time limited benefit month as Petitioner did work for part of that period.

### **DISCUSSION**

Effective July 1, 2014, Wisconsin began the Able-Bodied Adults without Dependents (ABAWD) policy in Kenosha, Racine and Walworth counties. *FoodShare Wisconsin Handbook (FSH) §3.17.1.2*. This was implemented statewide as of April 1, 2015. *Id.*

Under ABAWD rules, childless, able-bodied adults must either meet ABAWD work requirements or be exempt from the work requirement in order to receive FoodShare benefits. *FSH §3.17.1.1*. ABAWDs who are not exempt and who do not meet the work requirement are only allowed to receive 3 full months of time-limited benefits in a 36-month period. *Id.*

A person is considered an ABAWD, if that person is:

- ...
- 18 to 49 years in age\*;
- Able to work;
- Not residing in a household with a child under age 18 (regardless of the individual's relationship to the child, whether the child is included in the individual's FS assistance group, or the child's FS eligibility status); and
- Not pregnant.

...  
*FSH §3.17.1.4.*

An ABAWD may be exempt from work requirements if the person:

1. Is determined unfit for employment, which includes someone who is:
  - a) Receiving temporary or permanent disability benefits from the government or a private source;
  - b) Mentally or physically unable to work, as determined by the IM agency;
  - c) Verified as unable to work by a statement from a health care professional or social worker;
2. Is responsible for the care of a child under age 6 or caring for an incapacitated person, either of which live outside the home;
3. Is receiving Unemployment Compensation (UC), or has applied for UC and is complying with UC work requirements;
4. Is regularly participating in an alcohol or other drug addiction (AODA) treatment or rehabilitation program;
5. Is a student of higher education and is otherwise eligible for FS ([3.15.1](#));
6. Is a full-time high school student age 18 or over;
7. Is receiving Transitional FS benefits; or
8. Is meeting the ABAWD work requirement.

*FSH §3.17.1.5.*

An ABAWD meets the ABAWD work requirement if one of the following applies:

1. Working a minimum of 80 hours per month. Use converted work hours if paid weekly or bi-weekly;
2. Participating and complying with an allowable work program at least 80 hours per month; \* [includes FSET]
3. Both working and participating in an allowable work program for a combined total of at least 80 hours per month; or
4. Participating and complying with the requirements of a workfare program.  
*FSH, §3.17.1.7 (asterisk comment omitted).*

Also applicable here is a provision from the Department of Health Services' *FSET Handbook*. Only 2 appointment letters are required. *FSET Handbook, §3.5.2*. Here 4 were sent and the agency tried to call Petitioner also but here phone was disconnected.

Petitioner testified that she was working at a large retail establishment in July and August 2015 and did not know of the FSET requirements. Case notes contradict Petitioner's contention that she was unaware of the FSET requirement— she was told at the June renewal of the FSET requirement and given the FSET phone number.

I am declining to reverse this discontinuance of Petitioner's FoodShare. Simply the FSET requirement is twofold – participation and timely documentation of that participation. Quite frankly, it does not seem that Petitioner was recognizing the urgency of these requirements and taking them seriously. She did not make any of the appointments set for her and did not demonstrate that she met FSET participation requirements and has used her 3 months of time limited benefits. There is no basis for reversing the agency action or adjusting the time limited benefit clock.

### **CONCLUSIONS OF LAW**

That the agency correctly discontinued Petitioner's FoodShare benefits for failing to meet ABAWD requirements.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 8th day of February, 2016

---

\sDavid D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on February 8, 2016.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability